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CRIME PREVENTION AND CRIMINAL JUSTICE

Implementation of General Assembly resolution 49/150 on the Naples Political Declaration and Global Action Plan against Organized Transnational Crime

Report of the Secretary-General

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I. INTRODUCTION

1. The World Ministerial Conference on Organized Transnational Crime, held at Naples, Italy, from 21 to 23 November 1994, pursuant to Economic and Social Council resolution 1993/29, unanimously adopted the Naples Political Declaration and Global Action Plan against Organized Transnational Crime (A/49/748, annex, sect. I.A), which was approved by the General Assembly in its resolution 49/159 of 23 December 1994. The Assembly urged States to implement the Naples Political Declaration and Global Action Plan as a matter of urgency.

2. The Assembly requested the Secretary-General to transmit the Naples Political Declaration and Global Action Plan to the Commission on Crime Prevention and Criminal Justice for appropriate action, while recommending a higher level of priority for the United Nations crime prevention and criminal justice programme within the framework of the United Nations. The Commission was requested to keep the implementation of the Naples Political Declaration and Global Action Plan under regular review.

3. In a separate resolution, the World Ministerial Conference expressed its appreciation for the proposal of the Government of Italy to organize and host at no cost to the United Nations, and in consultation with the crime prevention and criminal justice programme, an international task force for the elaboration of proposals on the feasibility of establishing an international training centre for law enforcement and criminal justice personnel. The Conference took note of the offer of the Italian Government to act as host to the centre and to provide the necessary organizational and functional resources, and invited the Government of Italy to submit the results of the task force's work to the Commission on Crime Prevention and Criminal Justice at its fourth session.

4. The Naples Political Declaration and Global Action Plan identified specific measures, to be further elaborated and implemented, in order to make action against organized crime more effective and strengthen international cooperation. These measures are intended to strengthen the ability of States to cope with the increasing threat posed by organized transnational crime in its various new forms and manifestations. They are also directed at enhancing the capacity of developing countries and countries with economies in transition to deal with the problems created by organized transnational crime and to enable them to cooperate effectively at the regional and international levels.

5. In the Naples Political Declaration and Global Action Plan, it was strongly recommended that continued priority attention be accorded in the context of the United Nations crime prevention and criminal justice programme to strengthening international cooperation against organized transnational crime at all levels. It was recognized that existing resources were not sufficient to enable the programme to support intensification of efforts at the national level and increased intergovernmental cooperation, and it was recommended that a higher priority be accorded to the United Nations crime control activities by providing the programme with adequate resources to carry out its mandates and responsibilities.

6. The present report is submitted pursuant to General Assembly resolution 49/159 on the Naples Political Declaration and Global Action Plan against Organized Transnational Crime. It concentrates on certain aspects of implementation and the required action to be taken by States and the United Nations, as well as modalities for such implementation, pursuant to General Assembly resolution 49/159 and paragraph 45 of the Naples Political Declaration and Global Action Plan.

II. ACTION TAKEN BY THE COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE

7. The Commission on Crime Prevention and Criminal Justice discussed the issue of the implementation of the Naples Political Declaration and Global Action Plan at its fourth session, held at Vienna from 30 May to 9 June 1995, and began the process of encouraging Member States to proceed in that direction and identifying the areas to which attention should be directed. In its consideration of the most appropriate method and modalities of following up on the mandate of monitoring and promoting such implementation, conveyed by the General Assembly in resolution 49/159, the Commission had the benefit of the recommendations of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Cairo, from 29 April to 8 May 1995. The Congress had debated the issue in detail and had adopted resolution 3 on international instruments such as a convention or conventions against organized transnational crime. In that resolution, the Congress had invited the Commission to give priority to initiating the process called for by the Naples Political Declaration and Global Action Plan, by requesting the views of Governments on the opportunity of elaborating new international instruments such as a convention or conventions and on the issues and elements that could be covered therein. The Commission was also requested to consider whether it would be helpful to propose to Governments a list of issues or elements which might be dealt with in such instruments, with possible examples contained in the annex to the above-mentioned resolution. 1/ The Ninth Congress had also considered the issue of links between terrorist crimes and transnational organized crime, about which Member States had expressed their grave concern in the Naples Political Declaration and Global Action Plan (A/49/748, annex, sect. I.A, para. 2).

8. On the recommendation of the Commission at its fourth session, the Economic and Social Council adopted resolution 1995/11 of 24 July 1995 on the implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime. The Council took note of the report of the Secretary-General on proposals related to the programmatic aspects of the Naples Political Declaration and Global Action Plan (E/CN.15/1995/2). The Council welcomed with appreciation the preliminary report of the international task force to study the feasibility of establishing an international training centre for law enforcement and criminal justice personnel (E/CN.15/1995/11) and encouraged the Government of Italy and the Governments of the other States members of the task force to continue and finalize its work, with a view to informing the General Assembly, at its fiftieth session of the results. The Council requested the Secretary-General to initiate the process of requesting the views of Governments on the opportunity and impact of international instruments such as a convention or conventions against organized transnational

crime and on the issues and elements that could be covered therein, pursuant to the Naples Political Declaration and Global Action Plan. Pursuant to this request, the United Nations Office at Vienna sent a note verbale in September 1995 to Governments through their Permanent Missions at Vienna or in New York. Also in resolution 1995/11, the Council decided to establish, within the framework of the Commission, at its fifth session, an open-ended intergovernmental working group to consider, inter alia, the views of Governments on this matter.

9. For the purpose of assisting the international community in increasing its knowledge of criminal organizations and their dynamics, the Council requested the Secretary-General to collect and analyse information on the structure and dynamics of organized transnational crime and on the responses of States to this problem. The analysis of the information would be carried out building on the expertise and experience of Member States and drawing on the contributions of Governments. Such contributions could include teamwork by highly qualified experts, relevant organizations and individuals, taking into account work already done in this area. The open-ended intergovernmental working group to be established at the fifth session of the Commission will examine the results of the analysis of the information, which Governments were requested to provide to the Secretariat in the note verbale mentioned above. In a related provision, the Council requested the Secretary-General to submit to Member States for their consideration at the fifth session of the Commission a proposal on the creation of a central repository for existing legislative and regulatory measures and information on organizational structures designed to combat organized transnational crime, with a view to making this information available to Member States.

10. With respect to the provision of practical assistance to requesting Member States, the Council requested the Secretary-General, as necessary, to submit concrete proposals to the Commission for approval, with a view to developing practical models and guidelines for substantive and procedural legislation. These would be intended to assist developing countries and countries in transition in reviewing and evaluating their legislation and in planning and undertaking reforms, and would be developed building on the experience and expertise of States and drawing on contributions from relevant organizations. The Secretary-General was also requested to provide advisory services and technical assistance to requesting Member States in needs assessment, capacity-building and training, as well as in the implementation of the Naples Political Declaration and Global Action Plan. The Council further requested the Secretary-General to avail himself of the assistance of experts with extensive experience in the field of prevention and control of organized transnational crime indicated by Member States, who might be called upon in connection with technical cooperation activities. The United Nations Office at Vienna has requested Member States to provide it with the names of experts for the purpose of compiling a roster which can be resorted to in connection with requests for the provision of advisory services and practical assistance.

11. Following up on the recommendations contained in the Naples Political Declaration and Global Action Plan with respect to the prevention and control of money-laundering and the use of the proceeds of crime, the Council requested the Secretary-General to seek cooperation and to join efforts with other

international, global and regional organizations and mechanisms that have played an active role in combating money-laundering. The purpose of cooperation and joint efforts would be to reinforce common regulatory and enforcement strategies in that area and assist States, upon request, in treaty formulation and the development of criminal justice infrastructure and to provide technical assistance. Further, the Secretary-General was requested, as necessary, to compile appropriate manuals, drawing upon the expertise of Member States and of other relevant organizations, taking into account differences in legal systems and using the expertise of institutes and relevant entities of the United Nations crime prevention and criminal justice programme.

III. ACTION TAKEN AGAINST ORGANIZED TRANSNATIONAL CRIME: A GLOBAL PRIORITY

12. The 142 States present at the World Ministerial Conference on Organized Crime proclaimed their political will and strong determination, as well as their unequivocal commitment, to ensure the full and expeditious implementation of the Political Declaration and Global Action Plan, reflecting the urgency and priority attention attached to action against organized transnational crime. The Naples Conference was not the only forum in which the collective concern of States had been expressed, but was the culmination of efforts at the international level. The growth of organized transnational crime and its expansion both in terms of activities and across geographical borders brought about the realization that action against it could not be limited to the national level or to arrangements between a limited number of States. Efforts had to take into account the current political situation and the ease with which organized criminal groups crossed borders and took advantage of efforts designed to bring countries closer together and increase the free movement of goods, capital, services and people. Such efforts also had to be made in a manner tailored to the fact that organized transnational crime was making full use of modern technologies, thus increasing its sophistication and diversity and outpacing the capacity of many countries to deal with it. In their search for new opportunities and markets, organized criminal groups were ready to make sizeable investments in both equipment and human resources and were willing to bring their huge financial power to bear, in addition to using other more violent methods, for eliminating competition. In addition, the international community had realized that proceeds of crime directed at the legitimate economy posed a grave threat to financial stability and growth. The prospect of organized criminal groups infiltrating and attaining controlling interests in crucial sectors of the economies of developing countries and countries in transition had contributed to raising awareness and increasing concern among Governments, particularly at a time of joint efforts towards economic restructuring on the basis of free market principles.

13. It was against this background that world leaders began placing concerted action against organized transnational crime high on their agenda. The seven major industrialized countries, at their summit meeting held at Naples in July 1994, gave special consideration to the response of the international community against organized transnational crime and money-laundering. In their summit communiqué, the heads of State and Government of the seven major industrialized countries and the President of the European Commission expressed

alarm about the growth of organized transnational crime and the use of illicit proceeds to take control of legitimate business. This was a world-wide problem, with countries in transition being increasingly targeted by criminal organizations. They also expressed their determination to strengthen international cooperation to address the situation and welcomed the World Ministerial Conference on Organized Transnational Crime, to be held at Naples. In the Chairman's statement, the heads of State and Government of the Group of Seven stressed that organized crime and narcotics trafficking were a threat to political as well as economic and social life. Calling for increased international cooperation, they agreed that the World Ministerial Conference was a most important occasion to advance such cooperation.

14. At the United Nations fiftieth Anniversary Ceremony, held at San Francisco on 26 June 1995, the President of the United States of America called for agreement among the international community on a new agenda for the United Nations, to increase confidence and ensure support for the United Nations and to advance peace and prosperity for the next 50 years. In identifying the areas to which more attention should be paid on the part of the United Nations, President Clinton called for "support through the United Nations of the fight against man-made and natural forces of disintegration, from crime syndicates and drug cartels to new diseases and disappearing forests. They cross borders at will. Nations can and must oppose them alone, but we know, and the Cairo Conference reaffirmed, that the most effective opposition requires strong international cooperation and mutual support".

15. In the Chairman's statement of the summit meeting, held at Halifax in 1995, the Group of Seven declared that "transnational criminal organizations are a growing threat to the security of our nations. They undermine the integrity of financial systems, breed corruption, and weaken emerging democracies and developing countries around the world. To counter their criminal activities effectively, we will work to reinforce existing institutions, strengthen our cooperation, exchange of information, and assistance to other nations". The heads of State and Government of the Group of Seven agreed to cooperate more closely together, and with others, to ensure that transnational criminal organizations cannot escape justice by crossing borders. They encouraged all Governments to adhere to and implement relevant international conventions and the recommendations of the Financial Action Task Force. They recognized that ultimate success required all Governments to provide for effective measures to prevent the laundering of proceeds from drug trafficking and other serious crimes. To implement their commitments in the fight against transnational organized crime, they established a group of senior experts, with a temporary mandate to look at existing arrangements for cooperation, both bilateral and multilateral, to identify significant gaps and options for improved coordination and to propose practical action to fill such gaps.

16. In the Naples Political Declaration and Global Action Plan, States proclaimed their determination to join forces and fight together against the expansion and diversification of organized transnational crime. Notwithstanding recent successes, they expressed their conviction that coordinated strategies and other forms of international cooperation should be further developed. States noted with concern that organized transnational crime threatened the social and economic growth of developing countries and countries in transition

and their institutions; stressed that the international community should assist these countries in their efforts to enable their criminal justice institutions to adequately prevent and combat organized transnational crime; and observed that the fight against organized transnational crime should be accorded high priority by States and by all relevant global and regional organizations, with the necessary support of the general public, the media, business, institutions and non-governmental organizations. States arrived at these conclusions and proclaimed their determination to take the action specified in the Naples Political Declaration and Global Action Plan, while reaffirming the responsibility vested in the United Nations in crime prevention and criminal justice and recognizing the need to strengthen its role in the development of a comprehensive programme of action to prevent and control organized transnational crime.

17. The Naples Political Declaration and Global Action Plan was made possible by, but also attests to, a collective political will to deal with the problem at the global level and a consensus as to what needs to be done. This consensus is the result and culmination not only of the realization of the global effects of the problem, but also of a long process of convergence and balancing of national interests and perceptions, as well as the full recognition of varying needs and capacities. In the past, organized crime was considered one of the problems facing developed countries and, therefore, of little interest to developing countries which had other priorities and other more pressing needs. When organized crime began crossing borders and becoming a menace and a threat to developing countries, the scope of the problem was fundamentally altered. The changes in the political environment with the emergence of newly independent States, which entered a phase of economic and political transition, were soon perceived by organized criminal groups as increased opportunities for expansion and diversification and added a new dimension to the issue. The interest and concern of developing countries and countries in transition grew and the issue of organized transnational crime became one of their priorities, also because its effects made it more difficult to pursue other standing development priorities.

18. A new situation was created for developed countries as well. Whereas in the not-too-distant past action against organized crime was to be planned and taken largely within their borders, or in cooperation with other countries of similar capacities and perceptions, increased transnationalization and expansion brought about imponderables as to activities of organized criminal groups, and difficulties with regard to effective law enforcement and judicial cooperation. The new dimensions of organized transnational crime also require more resources for the expansion of cooperation arrangements, but also for new law enforcement techniques and capabilities. However, while developed countries already possess the infrastructure and crucial knowledge required in mustering the necessary resources and maximizing their efficiency and effectiveness, developing countries and countries in transition are found in the very difficult position of easily being outpaced by organized criminal groups. Countering the onslaught of organized transnational crime requires diversion of scarce resources, delaying or even threatening the attainment of other objectives and development targets. In addition, developing countries and countries in transition are increasingly finding themselves in a quandary. Their drive towards development and growth in accordance with free market principles is under threat from the

direct or indirect effects of organized transnational crime, while the limited effectiveness of their efforts, owing to the lack of the necessary resources, is often cited as a disincentive to the very much needed foreign investment and assistance.

19. The consensus and collective political will evidenced by the Naples Political Declaration and Global Action Plan, as well as the results of the other events mentioned above, are of great significance to future action by the international community against organized transnational crime. Of equal importance is the momentum built by the consistency and frequency with which the consensus and collective political will have been enunciated in the past two years. Such momentum and consensus are prerequisites for action to take a definitive shape and to have the desired effects in the shortest time possible, an element of importance in view of the rapid growth and expansion of organized transnational crime. The international community should begin taking decisive steps forward in the implementation of the policies and measures it decided upon in the Naples Political Declaration and Global Action Plan, building on but also sustaining this momentum.

20. Action against organized transnational crime would be more effective if it were collective, with its planning and implementation being the patrimony of all contributors to the consensus-building process and to the formulation of a strong collective political will. In the Naples Political Declaration and Global Action Plan, States recognized, while acknowledging its global implications, that prevention and control of organized transnational crime must necessarily vary from State to State and region to region and be based upon improvements in national capabilities, increased knowledge and shared experiences about organized criminal groups. Such variations at the national or regional levels are natural given the different manifestations and degrees of development of organized criminal groups and their activities. Further, differences in the degree of development of institutions and the financial capabilities of countries are bound to affect the responses to the problem. In situations of scarcity of funds and numerous competing priorities, the size and present effects of the problem of organized transnational crime are bound to guide the decisions of policy makers on the allocation of resources.

21. In addition to its recognized global implications, however, organized transnational crime has displayed the capacity to shift operations across borders, in order to minimize risk and maximize opportunities, and to take full advantage of gaps in national responses and of deficiencies in international cooperation. Further, organized transnational crime has shown the ability and readiness to benefit from economic growth and efforts towards economic reform and privatization in developing countries and countries in transition, mainly because of the variations in pace between such processes and the creation or strengthening of the appropriate institutions.

22. Consequently, current parameters may change too rapidly for existing mechanisms to respond adequately. In such a case, any opportunity for preventive action may be lost and control may become extremely difficult, placing limited resources and immature institutions under even more severe strain. It is, therefore, crucial to retain a global view and a long-term perspective in developing national policies and regional cooperation mechanisms

against organized transnational crime. In addition, there needs to be a common denominator against which action can be measured, in order to ensure continuity and consistency, as well as the sustained pursuit of common objectives.

23. The significance of the Naples Political Declaration and Global Action Plan, viewed in the context of the initiatives that have been taken since their adoption, lies in having demonstrated that the international community has reached agreement on a basic set of common objectives and on the fundamental elements of the modalities required to attain them. Considerably more work is necessary, however, to operationalize this basic agreement by way of consistent and coordinated implementation. This agreement appears to be founded on the understanding that the problem is equally threatening for all countries of the world, and that those countries having difficulties in bringing their relevant mechanisms up to the required standard for effective action in preventing and controlling its effects will be assisted by those in a position to do so. In the face of a problem as pervasive and dangerous as organized transnational crime, however, a sense of anxiety about minimizing its impact at the national level often tends to prevail. This tendency becomes even more prevalent when considering some of the activities in which organized transnational crime is engaged, which involve violence and, consequently, capture the attention of the public through the media coverage that they receive. Further, Governments are alarmed by the increasing involvement of organized transnational crime in legitimate business, coupled with the need of organized criminal groups to find ways of laundering their illicit proceeds.

24. One of the characteristics of this sense of anxiety is the tendency to disregard the benefits of building and sustaining consensus, and to rely on individual capacities in order to proceed forward at a presumably faster pace. Action taken in this context can be similar to action often taken at the regional level, in terms of homogeneity of perceptions, priorities, needs and immediate objectives, as well as relevant equivalency of the capacity of infrastructures. In the short term, the effectiveness of such action may be evident and may satisfy the urgency for measurable and visible results. In the case of organized transnational crime, however, the global nature of the problem ultimately demands a global approach and global solutions. Regional initiatives have been instrumental in meeting immediate needs and paving the way for global approaches on many issues. Such initiatives are, after all, based on the very same principles and the consensus which should characterize global action and can make it effective. In the regional context, however, consensus-building may be more easily attainable and sustainable, because of the reasons mentioned above.

25. Action taken in response to a sense of impatience with the global consensus-building process may appear to be breaking new ground and setting high standards of accomplishment. In this context, efforts to plan and implement such action may be useful in pointing to the ideal fashion of attaining the maximum objectives in the shortest time possible, thus serving as a guide and a yardstick by which to measure success. However, action proceeding at varying speeds may result in widening gaps instead of closing them and altogether eliminating them, particularly considering the flexibility and capacity for diversification of organized transnational crime. Differences in opinion and perspectives may present the risk of trivializing the matter and entangling it

in long debates, ultimately slowing down the desired pace, if not placing the effectiveness of the action per se in jeopardy. While peer pressure in the context of an institutional framework is invaluable, the risk of misperceptions as to ultimate objectives and the ways to achieve them may be too great in view of the implications of organized transnational crime and the threat it poses to developed and developing countries alike.

26. Effective action at the global level would need to move forward at the same pace, the speed of which would need to be collectively agreed upon. Only in such a case can there be the commitment to meet goals and attain common objectives. In view of the divergent situations in which different countries are found, particularly in terms of capacity and infrastructure, this pace may not be as brisk as the international community would wish. There would be a need for a mechanism to identify in the shortest time possible cases in which there is a slow-down and attempt to rectify the situation by providing the appropriate technical assistance. When action is the result of consensus and collective commitment, the effectiveness of technical assistance would be greatly enhanced, since the objectives and modalities of such assistance would be the product of consent and overall agreement.

27. The effectiveness of global action against organized transnational crime would also depend on how well coordinated it is, particularly since such action is bound to involve technical cooperation. Coordination would ensure more efficient use of resources and would greatly enhance the impact of technical assistance, not only by directing it to those areas where it is most needed, but also by establishing and maintaining a constant relationship between the needs to be met and contributions towards common objectives and goals. Coordination, which should be viewed as an integral part of effective action, requires a constant flow of reliable information, the willingness of all parties concerned to rely on and contribute to the availability of such information, and the readiness in particular of donor countries and agencies to channel resources towards meeting needs as they arise.

IV. IMPLEMENTATION OF THE NAPLES POLITICAL DECLARATION AND GLOBAL ACTION PLAN AGAINST ORGANIZED TRANSNATIONAL CRIME: PROGRAMMATIC ASPECTS AND MODALITIES

28. Full implementation of the Naples Political Declaration and Global Action Plan will require considerable effort and investment on the part of States and the United Nations, as well as relevant intergovernmental and non-governmental organizations. In order to maximize the effect of appropriate action by the Commission on Crime Prevention and Criminal Justice, and also to assist States in directing their efforts and resources towards implementation more efficiently, it may be useful to chart a course by identifying areas on which attention should be concentrated and where the United Nations can make a useful contribution through planning and implementing operational activities.

29. At a time of limited resources, implementation would need to proceed in phases, which would be agreed upon by the international community. The foundation of this phased approach would need to be a sustained and concerted effort to maintain the momentum and increase the impetus created by the Naples

Political Declaration and Global Action Plan and to further strengthen the consensus and political will that made them possible. In charting the course for full implementation, certain key factors would need to be kept in mind. The threat posed to the internal security and stability of sovereign States, as well as to international security, by the dramatic increase of organized transnational crime in the past decade is growing and will continue to grow and become more menacing if concerted and decisive action on the part of the international community is delayed. While energies have to be focused and action planned in the best and most efficient manner, the ultimate goals of effectively preventing and controlling organized transnational crime in all its forms and dimensions, and arresting its expansion at both the national and international levels, should be guiding the relevant efforts and should constitute the yardstick against which success is to be assessed.

30. Pursuant to the mandate entrusted to it by the General Assembly in resolution 49/159, the Commission on Crime Prevention and Criminal Justice began moving in the direction of charting the course towards implementation at its fourth session. In Economic and Social Council resolution 1995/11, adopted on the recommendation of the Commission, certain areas of priority attention were identified. In addition to examining the opportunity and impact of international instruments such as a convention or conventions against organized transnational crime, and an indication of the issues and elements to be covered therein, priority attention was given to improving reliable knowledge on the structure and dynamics of organized transnational crime, legislative and regulatory measures, and technical cooperation.

A. Strengthening international cooperation and the opportunity of a convention or conventions against organized transnational crime

31. The new responsibilities that Governments have to take on because of the escalation of organized transnational crime and the demand for global strategies to combat it, draw attention to the need for effective instruments, bearing in mind that what is most needed is a comprehensive, multi-layered approach to international cooperation in law enforcement and criminal justice in the fight against organized transnational crime. Ideally, a truly effective international approach would be composed of a web of bilateral, regional and multilateral arrangements complementing and promoting one another. In fact, bilateral and multilateral forms of cooperation are complementary rather than mutually exclusive. However, whether international cooperation can evolve in ways that allow a response to transnational criminal organizations commensurate with the threat depends on the capacity of States to understand that criminal justice and law enforcement systems can no longer be viewed as purely national concerns. Ultimately, the prospects of cooperation depend on recognizing that a new kind of threat demands a new kind of response, in which international cooperation plays a central role. Experience has shown the importance of adopting international instruments in order to enact global strategies of action when dealing with issues of a transnational nature. A very successful example is found in the United Nations Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances of 1988 (E/CONF.82/15 and Corr.2).

32. One of the major objectives of international cooperation must be to create greater harmonization in criminal justice systems, by improving the standards of countries with weaker criminal justice systems in general or by developing national legislation specifically directed against organized crime. It is crucial to eliminate "sanctuary States" and ensure that national legislation against transnational organized crime is as compatible as possible. Complete harmonization is, of course, impossible, for some of the reasons identified above. Yet there is a level of harmonization, perhaps better described as inter-operability, that allows for continued national differences while still achieving the necessary degree of complementarity for effective concerted action against transnational crime. It has been emphasized that "investigation of transnational crime, no less than its prosecution, will likewise involve multiple jurisdictions and cooperation among different Governments. To be useful, the products of these investigations should be as nearly interchangeable as possible. Procedures need not necessarily be identical but they should incorporate rules to protect the accused, limit police power, ensure equitable tribunals and provide decent prisons". 2/ Growing interchangeability and the capacity to use information and evidence across national jurisdictions are of major importance in the fight against transnational crime.

33. Multilateral cooperation should not be seen simply as a compromise between various bilateral efforts. Rather, it is something that has significant benefits in its own right, as many regional arrangements have demonstrated. They can be understood as the criminal justice counterpart to the growth of economic and political integration in many regions of the world, such as in western Europe. Regional cooperation in judicial and criminal matters is the natural concomitant to efforts to achieve political and economic union, even though it involves some of the more sensitive and complex aspects of national sovereignty. In this sense, multilateral cooperation can be understood as a spin-off from broader political and economic processes, which are proceeding with increasing frequency and speed - albeit based on the recognition that complete uniformity of national legislation is neither feasible nor desirable. As has been observed, "the criminal law systems are all finely tuned to the specific characteristics of the different countries. This delicate equilibrium should not be disturbed, unless a substantial advantage is to be gained". 3/

34. To be sure, the elaboration of an international instrument such as a convention is not obstacle-free. While a multilateral convention would provide a way of augmenting resources and mobilizing mutual support and assistance for what individual States are unable to do alone, it should be stressed that multilateral responses can only work if each party makes sacrifices commensurate with those of others. Avoiding this kind of obstacle requires a commitment to take whatever action is necessary despite the cost. If a convention is to be effective, it needs States to join and subsequently to exhibit the will and capability to meet their obligations under it. As has been noted: "Only if most countries were willing to re-examine some deeply entrenched legal procedures, and to recognize that their own traditional way of doing things was not necessarily the best or most effective approach to the problems in question, would the concepts of multilateral ... conventions become a reality". 4/

35. One of the difficulties with such a new instrument may be its content. Similar conventions on terrorism and drug trafficking have been oriented towards

a specific type of crime. The question arises, therefore, whether a new international instrument on organized transnational crime should cover the many criminal activities in which organized criminal groups are engaging, or should focus on the way in which countries should respond to the threat posed by transnational criminal organizations. The problem with concentrating on the crimes is that they are so extensive - and it is difficult to be all embracing. The implication is that attention should be focused on the second aspect, that is the responsibility of Governments to respond vigorously to the challenge, building upon the experience developed in the process of elaboration, ratification and implementation of the 1988 Vienna Convention and starting from the already existing proposals on legislation and law enforcement methods covered in the Convention itself. The extent of international support for the Vienna Convention is extraordinary: more than 100 States are parties to it. That Convention, thanks to the commitment and political will of such a large number of countries, has had a major impact in bringing about concerted action against drug trafficking.

36. Another difficulty lies in the fact that the elaboration of international conventions may be a long process that would require the achievement and maintenance of consensus at every stage. Breadth of participation should not be achieved at the expense of depth and intensity of cooperation. However, in the presence of a strong political will and broad consensus, as evidenced by the priority attached to action against organized transnational crime and the Naples Political Declaration and Global Action Plan, it would be possible to ensure that the negotiation process does not result in a diluted document that falls short of establishing the provisions necessary for an effective response to transnational criminal organizations. Effective action against organized transnational crime requires a framework within which States could pursue cooperation at all levels in a more systematic and effective way. Such a framework would make it possible to bridge the gaps that exist at present and are readily and fully exploited by organized transnational crime. For example, the Vienna Convention has given rise to a wave of legislative activity at the national level, supported by the legal assistance programme of the United Nations International Drug Control Programme, as well as to the adoption of numerous bilateral and regional agreements that implement and further the Convention's provisions.

37. In spite of its difficulties, the elaboration of an international convention against organized transnational crime could bring a number of advantages and may represent an invaluable potential for universal adherence. First, the very act of negotiating a convention would have certain benefits. For example, it would focus attention on the problem. Although specific criminal organizations have been given considerable attention, the emergence and expansion of transnational criminal organizations as a generic threat posing problems in many respects exceeding those of international terrorism has been relatively ignored. Indeed, there has been a paucity of both journalistic and scholarly analyses dealing with transnational criminal organizations and their activities as a problem faced not only by individual States but also by the international community as a whole. A convention on organized transnational crime would be very important in symbolic terms, as it would represent the collective judgement of the international community that the problem has become sufficiently serious to command a global response. This could also have an

important impact in terms of legitimizing national actions, including national legislation against the activities of organized transnational crime. In addition, the negotiation of a convention would lead to greater interaction among Governments and particular national agencies in ways that would themselves lead to enhanced international cooperation. Developing a knowledge of other negotiators can be important, particularly if these negotiators also have some role in the subsequent implementation of policy.

38. Secondly, once a convention was in place, it would have several positive effects: (a) it would provide a set of standards and expectations that the signatories would have an obligation to live up to; in a sense it would facilitate the exertion of peer pressure as a common effort of the international community in addressing the problem; (b) it would have an important regularizing effect and provide for a more standardized form of cooperation than does the extension of bilateral accords, each of which has its own distinctive features; (c) it would facilitate more systematic assistance in the areas of criminal justice and law enforcement, rather than ad hoc approaches; (d) it would provide guidance for a programme of implementation that would assist in the dual objectives of harmonizing law enforcement risk and making it more difficult for transnational criminal organizations to infiltrate legitimate business.

39. It is evident that there are both advantages and disadvantages to a multilateral convention against organized transnational crime. The issue is not clear-cut. If Governments do decide that the advantages outweigh the disadvantages, however, there are several other requirements that would have to be met to transform it from a theoretical possibility into a feasible and practical proposition. First, it would necessitate the maintenance of the broad-based consensus on the seriousness of the challenge posed to nations and the international community by organized transnational crime. The key to maintaining and further broadening this consensus is for Governments that are affected by organized transnational crime to recognize that they are not alone, and for Governments that are not currently the target of organized transnational criminal activity to understand that they are not immune, and that it may only be a matter of time before the problem impinges on them directly. Secondly, another crucial requirement is that the idea of elaborating a convention should have the unequivocal backing of most States. The more diverse this group of States is, the better, on the understanding that a convention should not be seen as an attempt by any particular grouping to impose required reforms of behaviour on others with different levels of economic development or cultural traditions. The willingness of several highly committed States to give a high priority to successful implementation could create a bandwagon effect, encouraging others to join. A third requirement is that there should be a clear idea of the purpose and scope of a convention. It has to be carefully formulated in ways that specify the target (transnational criminal organizations and their members), the obligations that States would incur (in terms of taking initiatives in their own national law, in positively responding to requests for assistance from others and in providing and exchanging information) and provisions for implementation (both procedural and substantive).

B. Increasing reliable knowledge

40. Any discussion of international cooperation will necessarily involve a clear understanding of priorities and objectives. International cooperation on a particular issue, such as the ability of criminal justice systems to prevent and control organized crime, implies a thorough knowledge of the risks involved in both the short and long term. In addition, it requires an accurate assessment of the capacity of the criminal justice system to deal with complex forms of crime. A combination of these parameters, with the appropriate balance, would serve to put international cooperation into perspective. Only knowledge and careful evaluation can lead to the appropriate selection of priorities and objectives. Policy makers at the national level, those ultimately capable of and responsible for building, sustaining and advancing international cooperation, as well as setting its pace, need this knowledge to guide them towards rational decisions. Policy makers also have to be able to strike the appropriate balance between competing interests, both political and financial. Balancing the multiple interests competing for resources is difficult for every Government, regardless of its level of development. International cooperation requires undivided attention and genuine commitment at all levels of Government for the pooling and allocation of resources commensurate to the risk posed to the international community by organized transnational crime.

41. The tools available to Governments are often found to be unequal to the task of effectively combating the new transnational manifestations of criminality and it is therefore through their attacks on traditional principles and sovereignty that organized criminals have succeeded in carrying out their illicit operations at a considerably lower risk to themselves. If criminal organizations are attracted to the process of internationalization because they have found areas in which the risk from law enforcement authorities is minimal, then coordinated international action to equalize this risk in various countries will minimize or contain the process. Equalizing the risk means raising the quantity, quality and, more importantly, compatibility of preventive and control action at an adequate level on a world-wide scale and putting in place mechanisms designed to maintain and improve that level in a consistent and coordinated fashion.

42. The capacity of States to prevent and control organized transnational crime depends largely on knowledge and the availability of reliable information about its characteristics, the structures of organized criminal groups, their methods of operation and their interests with respect to illicit activities. In many developed countries, the occurrence and growth of organized crime has led to considerable high-quality work with respect to accumulating knowledge and collecting reliable information. In spite of these advances, the task facing law enforcement agencies and the criminal justice system in general remains an arduous one, because of the increased diversification and expansion of organized crime across borders, as well as its tendency to become involved in activities characterized by high complexity. In most developing countries and countries in transition, however, various factors, ranging from lack of adequate resources to recent rapid political and economic developments and changes, have slowed down or inhibited the process of attaining a thorough understanding of the situation. Further, there are considerable difficulties in evaluating the threat posed by

organized transnational crime and the capacity of law enforcement and criminal justice systems to respond to it. Compounding these difficulties are changes in the characteristics of organized transnational crime and an almost dramatic increase in the sophistication of its operations, as well as its mounting expansion in response to increased opportunities and weaknesses of national institutions.

43. The Naples Political Declaration and Global Action Plan emphasized the importance of adopting a generally agreed concept of organized crime as a basis for more compatible national responses and more effective international cooperation. In the absence of the comprehensive knowledge about organized crime referred to above, arriving at such a common concept may entail increased difficulties. Consequently, the full potential of international cooperation would be rather difficult to realize, leaving room for loopholes that have been, and continue to be, exploited by organized transnational crime. The lack of a common concept of organized crime can create considerable obstacles to the efforts of national law enforcement and judicial authorities to detect, prosecute and adjudicate cases of organized crime. One of the key areas affected would be the exchange and sharing of information and intelligence that is vital to these efforts. In many cases, even where bilateral or multilateral cooperation arrangements exist, there appears to be a lack of open channels of communication and information exchange between Governments and between the competent national authorities. A reason often cited is the lack of understanding of a country's legal system and of the capacity of law enforcement and judicial authorities to produce the best possible results with the relevant information. Such concerns, which may also include apprehensions regarding the security of information or intelligence, have been known to hamper major investigations and cause long delays in judicial proceedings, sometimes resulting in the virtual impunity of the individuals apprehended, at a high financial and human cost.

44. The need to improve knowledge on organized crime and its transnational dimensions and activities has become more urgent at present, mainly because of the increased realization of its effects on national and international financial systems, as well as on institutions and society at large. There are two levels of knowledge required, which need to coexist and be developed concurrently.

45. The accumulation of theoretical knowledge has irreplaceable value for the purposes of educating younger generations and the public in general and for devising strategies and developing measures to counter the corrupting effects of organized crime on societal values. Theoretical knowledge, however, cannot substitute for the practical, operational knowledge that needs to be imparted to law enforcement and judicial personnel to enable them to prevent and control organized transnational crime at all levels. Each type of knowledge will stand to benefit greatly from the other, and a balanced development of both will go a long way towards achieving effective action against organized transnational crime. Academic institutions and professional associations have a major role to play in accumulating theoretical knowledge on organized transnational crime and in disseminating this knowledge, in close cooperation with governmental agencies and the education system, as well as in concert with the media, non-governmental organizations and the private sector.

46. The development of operational knowledge requires the capacity to process and evaluate information and intelligence derived from day-to-day operations and investigations, and from the experience of other countries in the field. While research is a major component of theoretical knowledge, experience and expertise acquired in field work form the basis of practical knowledge. Another essential element of practical knowledge is the ability of law enforcement and judicial personnel to evaluate the information collected and processed and the intelligence accumulated. This is particularly important in connection with the detection, investigation and adjudication of economic crimes and other illicit activities of organized criminal groups involving financial operations and business transactions.

47. The capacity to collect, process and evaluate information and intelligence not only at the national level, but also across borders, requires careful planning and consistent implementation of relevant strategies and policies, as well as emphasis on human resources development. In addition, the use of, and reliance on, modern telecommunications and data-processing equipment is of considerable importance, in view of their increasing utilization by organized transnational crime. Therefore, the accumulation of practical knowledge requires, in addition to commitment and determination, major and long-term investments by Governments, often not only at the operational level but also at the institutional level.

48. For the purpose of the acquisition and dissemination of theoretical knowledge, academic institutions, professional associations and the media should be actively and tangibly encouraged and supported, and programmes should be put in place to enlist the involvement and participation of the private sector and non-governmental organizations. Comparative studies between practices and experiences in different countries would contribute to the accumulation of both types of knowledge, while the capacity to exchange and use information and intelligence would strengthen international cooperation and render action against organized transnational crime more effective.

49. In an effort to begin collecting information to facilitate the process of accumulating knowledge, the Crime Prevention and Criminal Justice Branch included the issue of transnational crime for the first time in the Fourth United Nations Survey of Crime Trends and Operations of Criminal Justice Systems. The preliminary results of the Survey were submitted to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/CONF.169/15 and Add.1), and were made available to the Commission on Crime Prevention and Criminal Justice at its fourth session.

50. One of the conclusions that can be drawn from the replies provided by Governments is that there are considerable difficulties in many parts of the world in actually identifying activities that have a predominantly transnational character and in which organized criminal groups are engaged. While the potential effects of these activities are appreciated and there are indications of measures being devised to begin coming to terms with the problems created, in many cases there appears to be a lack of the necessary analysis that would focus on the specific characteristics of organized crime and the transnational dimensions of its activities. Consequently, there is a delay in legislative and regulatory action which, drawing on the results of such analysis, would prevent

and control the further expansion and diversification of organized transnational crime, and promote more effective international cooperation.

51. Developed countries are generally in a position to devote the necessary resources for acquiring the body of both theoretical and practical knowledge that is required for the effective prevention and control of organized transnational crime and, as discussed earlier, considerable efforts in that direction are in progress.

52. However, the difficulties encountered by developing countries and countries with economies in transition make assistance crucial. The United Nations should be in a position to assist countries, through the provision of advisory services and training, in developing the means and techniques of gathering, processing and evaluating information and intelligence on the operations of organized transnational crime, on its methods and interests, as well as on the ways of laundering and using the proceeds of its activities. In collecting and processing information, emphasis should be placed on the expansion of organized crime across borders and on its increased levels of diversification and sophistication, which are elements that require particular attention since they differentiate this form of crime from other criminal activity. The accumulation of practical knowledge would largely depend on the studies that could be carried out at the national level, as well as on the comparative studies that could be carried out at the regional and international levels on the basis of reliable information.

53. In accordance with the Naples Political Declaration and Global Action Plan, the United Nations was mandated to assist States in the specific actions required for the increase and improvement of knowledge on organized transnational crime and its dynamics. Provision of the information and materials requested by the Secretary-General pursuant to Economic and Social Council resolution 1995/11 would permit the undertaking of a comprehensive and comparative study of the situation in the various regions of the world, thus contributing to the achievement of the goal of improving reliable knowledge on organized transnational crime, its structure and dynamics. According to the above-mentioned Council resolution, the collection and analysis of information should be carried out drawing on the contribution of States, which could include teamwork by highly qualified experts. This contribution would be invaluable, particularly given the need to take into account and build on work already done in this area, and considering the limited resources available to the United Nations crime prevention and criminal justice programme. The assistance of highly qualified experts, placed at the disposal of the Secretary-General by States and relevant international organizations, would greatly enhance the value, both scientific and practical, of the analysis and facilitate the work required for the necessary comparative study.

54. Through a global assessment of the transnational organized crime situation, the study would seek to contribute to a better understanding of the problems arising from differences that exist or emerge among various countries in the perception and evaluation of organized transnational crime, thus leading to the gradual development of a common perception of the phenomenon, and a global strategy for more effective international cooperation. The study should draw on national experiences, assisting, in the process, individual countries that lack

the relevant capacity to identify the problem and begin collecting and processing reliable information. It should include an examination of specific types of criminality that are considered particularly dangerous or alarming and an examination of the problems arising from the expansion or reallocation of transnational criminal organizations to countries where defence mechanisms are weak. It should also consider conditions that are conducive to the rise and growth of criminal organizations, such as social, economic and political factors, structural characteristics of organized crime, as well as organizational shortcomings in the control agencies. It should include an analysis of the problems related to the different degrees of development of laws and regulations in individual countries, as well as an analysis of the activities and methods of operation of transnational criminal organizations. The results of the study would also be used for the development of special programmes, courses and curriculums for academic institutions, to ensure that theoretical knowledge is increased, improved and disseminated, and to create the basis for long-term and consistent action against organized transnational crime.

C. Assistance in the legislative and regulatory fields

55. Legislation, both substantive and procedural, occupies a prominent place among policies to combat organized transnational crime. It remains one of the primary tools at the disposal of Governments for the purpose of protecting the values and security of their societies and fostering growth and development. Legislation, however, needs to be dynamic and to adapt itself to, if not to foresee, developments. In the case of organized transnational crime, legislation should be developed with a view to fostering international cooperation and concerted action. Legislation should be structured and elaborated in such a way as to deal severe blows to organized crime groups at points where they would be most effective.

56. The Naples Political Declaration and Global Action Plan recognized the great importance of adequate legislative and regulatory measures for the prevention and control of organized transnational crime. In particular, it was recommended that States examine the experience of countries that have confronted organized crime and the intelligence derived from the analysis of its structures and criminal activities, as useful guiding principles concerning which substantive, procedural and regulatory legislation and organizational structures are necessary to combat the phenomenon. In addition, the regulatory measures recommended in the Naples Political Declaration and Global Action Plan with respect to money laundering and the proceeds of crime, and other law mechanisms to reinforce transparency and integrity in business and government, should be considered preventive measures of equal importance with penal law means of combating organized crime. It should be mentioned that attention was also paid to the possible need for substantive legislation that would address participation in criminal organizations or conspiracies, and imposing criminal liability on corporate bodies, as a means of strengthening capabilities to combat organized crime domestically and improve cooperation internationally.

57. As mentioned above, legislative and regulatory measures for the prevention and control of organized transnational crime are still lacking in a number of countries, in spite of the willingness to effectively address this form of

crime. In the absence of specialized theoretical and practical knowledge, and in view of the difficulties faced in obtaining such knowledge, as well as the results of the experience accumulated in other countries, the elaboration of strategies and their implementation through legislative and regulatory measures are daunting tasks for many countries, particularly developing countries and those with economies in transition.

58. In the Naples Political Declaration and Global Action Plan, States expressed the wish to strengthen and enhance the capability of States, as well as the United Nations and other relevant global and regional organizations, to achieve more effective internatical cooperation against organized transnational crime, in relation, inter alia, to closer alignment of legislative texts concerning organized crime. In fact, divergences in legislative and regulatory measures have often been cited as among the principal difficulties encountered in bilateral and multilateral cooperation.

59. Governments may need to consider reviewing their criminal policies from both the substantive and the procedural perspective. From the substantive point of view, attention should be paid to the criminalization of certain forms of behaviour. The experience gained in the countries where organized crime is criminalized by comprehensive and appropriate legislation should encourage the elaboration and adoption of similar laws. This could be done in a concerted manner, thus avoiding discrepancies among the various countries and promoting the convergence of mechanisms and policies. The international debate on organized transnational crime has already reached some landmark points and this should testify to both the awareness and the willingness to fight it in a concerted and coordinated fashion. From the procedural point of view, Governments would need to consider issues related to traditional concepts of sovereignty and individual decision-making in the light of problems posed by new criminal activities. The realization at the political and decision-making level of the actual magnitude and complexity of organized transnational crime may serve as a basis for elaborating improved forms of international cooperation, drawing on the pool of knowledge and experience in the scientific community.

60. The differences between civil law and common law systems have not prevented international cooperation in the past. The long-standing tradition of bilateral treaties and multilateral conventions supports the idea that, where agreement is reached on a topic, mutual cooperation may run smoothly. The problem is how to develop strategies and techniques that will reduce the number of obstacles to international cooperation. The most recent instruments of international criminal law could provide useful suggestions to that end.

61. The first step towards convergence, and eventual closer alignment of legislative and regulatory measures, would be through the adoption and promulgation of policies of demonstrated effectiveness that do not generate problems of compatibility where the legal systems differ, but that actually facilitate cooperation between countries. In the area of substantive legislation, efforts against organized transnational crime would be considerably strengthened through the introduction of reforms focused on criminalization of participation in a criminal organization, criminalization of conspiracy or similar forms of inchoate offences, prohibition of laundering of criminal

proceeds, and sanctions and other measures, such as the confiscation of illicit proceeds, aimed at defeating the economic power of criminal organizations.

62. In any effort towards closer alignment of the legislative approach to organized transnational crime, the regulatory measures necessary to obtain maximum transparency of financial systems and to prevent monopolies should not be neglected.

63. In accordance with Economic and Social Council resolution 1995/11, the Secretary-General is to submit to Member States for their consideration at the fifth session of the Commission on Crime Prevention and Criminal Justice a proposal on the creation of a central repository of existing legislative and regulatory measures, and information on organizational structures designed to combat organized crime, taking into account the capabilities of the United Nations Crime and Justice Information Network and the activities of other United Nations and relevant intergovernmental bodies. Should States deem it appropriate and desirable to proceed with the creation of such a repository, their continuous support and assistance would be a sine qua non for its usefulness and effectiveness. Such a repository would need to be continuously updated and complemented with comparative analyses and commentaries, as well as with information on the ways that measures are applied and on their contribution to the prevention and control of organized transnational crime. The material and information contained in the repository would be placed at the disposal of States and could be used in advisory services and training undertaken by the United Nations in response to requests for assistance in the field of prevention and control of organized transnational crime. The results of the comprehensive study on the organized transnational crime situation in the various regions of the world, mentioned above, would be combined with these comparative analyses to enhance the options available to States wishing to enact legislative and regulatory measures.

64. In Council resolution 1995/11, the Secretary-General was requested, as necessary, to submit concrete proposals to the Commission for approval, with a view to developing practical models and guidelines for substantive and procedural legislation, building on the experience and expertise of States and drawing on contributions from relevant organizations. Such models and guidelines would rely on information collected and analysed regarding best practices with respect to legislative and regulatory measures, as well as on the knowledge and experience accumulated through the comprehensive study. The United Nations could assist requesting States in tailoring these models and guidelines to their particular exigencies and their legal, cultural and social traditions, in order to facilitate integration of the relevant policies and measures within their specific systems, as well as their implementation. In specific areas that present particular difficulties, such as the laundering and use of the proceeds of crime, special attention could be given to assisting States not only in obtaining information on measures and developing the appropriate mechanisms, but also in assessing the needs of their systems in order to maximize the effectiveness of measures and in identifying the most appropriate mechanisms for their implementation.

D. Technical cooperation

65. Another issue of central importance, and one directly linked to the fundamental concept of international cooperation, is technical assistance. Effective international cooperation often depends on the capacity of the criminal justice system of a given country. Raising the level of knowledge, expertise and professionalism of a criminal justice system requires resources that many countries lack. Technical assistance is then the only way of ensuring that structural difficulties are overcome. The provision of technical assistance can take many forms, depending on the needs of the recipient and on the availability of donor resources. Technical assistance can range from advisory services to the provision of equipment, and will almost invariably include specialized training. The planning and execution of technical assistance projects require constant cooperation and consultation with the competent authorities of the recipient country at every stage of the process. Particular attention should be given to ensuring that assistance is based on the actual needs of the country in question, to be determined by that country, if necessary in consultation with those providing the assistance. Assistance needs to be tailored not only to the specific needs but also to the political, cultural and legal traditions of the recipient country. It should be realized that measures and policies that have proved effective in dealing with a specific problem may need to be substantially modified to retain their effectiveness in different settings or systems. In many cases, the very basic principles or rationale of action are the only elements that can be retained, and new measures and policies have to be designed. A failure to structure and deliver technical assistance on these grounds risks not only rendering such assistance entirely ineffective but also creating an environment that is far from conducive to meaningful cooperation.

66. The overall capacity and stage of development of the criminal justice system are factors that should be taken into account in all technical assistance efforts, particularly when such assistance is intended to help the recipient country to deal with organized transnational crime. Because of the sophistication of this form of crime, assistance is often aimed at strengthening or improving legislative and law enforcement measures. Such interventions, however, need to be planned and developed on the basis of a thorough knowledge of the criminal justice system in question and its overall capacity, as well as on a careful evaluation of their impact on that particular criminal justice system. For example, the establishment of a special investigation unit for offences related to the laundering of the proceeds of crime may improve the detection and apprehension of money launderers. Its successes may, however, be frustrated if the prosecuting and judicial authorities are not in a position to evaluate and use the evidence that the efforts of that unit have yielded.

67. Another issue that needs to be carefully considered is coordination. Multiple assistance projects are directed almost simultaneously at the same component of the criminal justice system, overlapping if not conflicting with each other. The result is an unnecessary duplication of effort, which may lead to confusion among recipients and thus render technical assistance ineffective. Coordination is necessary on the part of all concerned and should be viewed as an essential complement to the structured and thorough preparation and provision

of technical assistance. Without it, the resources devoted to such assistance fail to achieve the intended goals.

68. The traditional rationale for technical assistance, either in drafting new legislation or in training criminal justice personnel, is to help countries to cope more effectively with their problems. The global situation has radically changed in the past few years, however, and so have the needs and goals of the international community. Technical assistance needs to be viewed in the context of the new political and economic realities and to be adapted to them, in terms of both concept and objectives. Technical assistance programmes should be designed to enable countries to equalize the organized crime risk and to do so in such a way as to contribute to the collective interest in deterring the expansion of organized crime.

69. If this objective is missed in planning and providing technical assistance, such assistance will remain a solidarity tax that developed countries pay directly or through multilateral mechanisms. It will be welcomed, but not enough, and the more countries are constrained by limited resources, the less technical assistance they will provide. It is essential, therefore, that technical assistance become more and more a productive investment for three different types of interests: those of the countries receiving assistance, those of the countries giving it and those of the international community.

70. A fundamental purpose of international cooperation is to contribute to the creation of self-reliant capacities in developing countries, as well as in countries with economies in transition. Strengthened technical cooperation in the fight against organized transnational crime should be viewed as a significant step in that direction. The operational activities of the United Nations crime prevention and criminal justice programme should be geared to developing expertise, especially in countries where it is scarce, and to promoting the highest standards of professionalism and specialization. Training and upgrading the skills of personnel working in the various areas of criminal justice is considered crucial, particularly with respect to the investigation, prosecution and adjudication of complex cases. For the purpose of maximizing resources and raising awareness, training seminars would be first organized at the regional level, concentrating on common exigencies and problems, with a view to eventually responding to requests for training courses at the national level. In order to achieve these aims, appropriate expertise would need to be identified and training material developed that would cater to the specific requirements of each region or each group of trainees. Furthermore, effective channels of communication are necessary in order to assess needs and prevailing circumstances, so that training activities can be tailored accordingly. The Commission may wish to identify the most appropriate ways of enabling the United Nations to respond to the requests of States and provide the assistance outlined above.

71. The accumulation of knowledge and expertise, and the development of the capacity to collect, process and analyse reliable information, will require efforts spanning a certain period of time. This would be necessary to put together the appropriate expertise and to carry out a study that would be truly comprehensive and constitute a major contribution to the common efforts of the international community against organized transnational crime. Capacity-

building requires a long-term and consistent commitment to ensure that the benefits of assistance can be sustainable through the consolidation of mechanisms and procedures, and the creation of the necessary infrastructure. Organized transnational crime, however, continues to expand its reach and constitutes a growing threat to the international community. A well-balanced approach is, therefore, essential. The efforts to accumulate knowledge would need to be undertaken simultaneously with meeting the current and pressing needs of States in taking immediate measures to prevent and arrest the expansion of organized transnational crime, and mitigate its effects on their economies and institutions. Concurrently with building the capacity for pursuing common objectives, there is an urgent need to strengthen existing mechanisms and institutions to fight against the most immediate manifestations and threats posed by organized transnational crime.

72. In order to contribute to this balanced approach, the United Nations should assist requesting States in assessing their immediate needs, through the provision of advisory services. Such services should also be provided in reviewing existing measures, mechanisms and institutions in order to identify and put in place modalities for strengthening their capacity to respond to the problems created by the new manifestations of organized transnational crime. In response to requests from States, the United Nations should provide expert advice and options on the establishment of special investigative units and on developing reliable evidence-gathering techniques. For the purpose of strengthening the capacity of States to cooperate and exchange information, intelligence and experience, the United Nations should assist with the creation of special mechanisms and the implementation of appropriate measures. The pressing needs that currently exist are evidenced by the increase in requests for assistance which the Crime Prevention and Criminal Justice Branch has received in the past year. The Branch, often cooperating closely with the United Nations International Drug Control Programme, has begun to respond to such requests from the Governments of Belarus, Kyrgyzstan, Pakistan and the former Yugoslav Republic of Macedonia.

V. CONCLUSIONS

73. States have attached high priority to the implementation of the Naples Political Declaration and Global Action Plan, as well as to the United Nations crime prevention and criminal justice programme and its role in such implementation. This priority should soon be translated into practice if the momentum of the World Ministerial Conference on Organized Transnational Crime is to be sustained. The consensus on the threat posed by organized transnational crime and the urgency of effectively combating it, and the political will to take global action create the necessary foundations for implementation. Efforts by the international community and the United Nations should be guided by this consensus and political will and be geared towards sustaining and broadening them.

74. Building on the established consensus and taking full advantage of the present political climate, which is conducive to more meaningful international cooperation, States should specify the activities that need to be undertaken for implementation, agree on the pace of such implementation and devote their

energies and undivided attention towards achieving the common goals identified in the Naples Political Declaration and Global Action Plan. Such action is essential to enable the Commission on Crime Prevention and Criminal Justice and the United Nations to undertake rational and effective planning.

75. In view of its general mandate and universal constituency, the United Nations provides an appropriate mechanism for the promotion of global action. The United Nations has been given a special responsibility to improve countries' capacities to combat organized transnational crime and can serve as global catalyst, bringing together divergent views, equalizing the burden and pace of implementation and encouraging efforts in that direction. While the United Nations is naturally held to austere standards of efficiency and effectiveness, it cannot move ahead without Member States providing it with the means to do so. In the absence of these means, and in spite of its best efforts to use its limited resources with maximum efficiency, it becomes very difficult to make a real impact and produce measurable results. As with any other action on a global scale, resources are bound to be a central issue. The Secretary-General has begun translating into practice the priority attached to the fight against organized transnational crime in the context of the proposed programme budget for the biennium 1996-1997. 5/ Regular budget resources, however, can only provide a minimum framework and, while they should be further increased, are not likely to be sufficient for the required action. They need to be supplemented by extrabudgetary resources through voluntary contributions from States, particularly in view of the vast needs of developing countries and countries in transition and the central role that the provision of practical assistance is bound to play in any efforts towards implementation of the Naples Political Declaration and Global Action Plan.

Notes

1/ Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Cairo, 29 April-8 May 1995 (A/CONF.169/16), chap. I, resolution 3.

2/ Testimony of Philip B. Heymann, Deputy Attorney General, to the Foreign Affairs Committee, United States House of Representatives, 14 September 1993, p. 3.

3/ See Fleur Keyser-Ringnalda, "European integration with regard to the confiscation of the proceeds of crime", paper compiled for the Tenth International Symposium on Economic Crime, Cambridge, July 1992.

4/ Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990 (United Nations publication, Sales No. E.91.IV.2), chap. IV, sect. C, para. 253.

5/ See Official Records of the General Assembly, Fiftieth Session, Supplement No. 6 (A/50/6/Rev.1), sect. 13.